

# INSTRUCTIONS FOR APPLYING FOR A SEXUAL ASSAULT PROTECTION ORDER IN WYOMING

A sexual assault protection order is a civil order issued by the court on behalf of a sexual assault victim. The order can require the alleged perpetrator to stay away from the victim or place(s) where the victim lives or works and to have no further contact with the victim.

Any person 18 or older who is a victim of sexual assault – including a single incident – may petition the court to obtain the order. Victims under 18 need a parent or guardian to petition on their behalf. A third party may also file on behalf of a vulnerable adult or any other adult who cannot file due to age, disability, health or inaccessibility.

The sexual assault protection order is designed for victims who do not meet the “household member” requirement with the person who sexually assaulted them to qualify for a domestic violence protection order. If you are considering petitioning for a sexual assault protection order, you should meet with a sexual assault advocate or a lawyer to discuss the different available remedies and challenges with the various orders.

A Sexual Assault Protection Order may also be obtained as part of a criminal case. If a victim reports the sexual assault to law enforcement and the assailant is being prosecuted, a judge may order the perpetrator to keep the assailant away from the victim when they are released from custody.

***Petitioning the court for a Sexual Assault Protection Order does not guarantee your safety or that the alleged perpetrator or Respondent will comply with the terms of such an order.***

*For help in developing a safety plan or about protection orders and how to get one, contact your local domestic violence program (see Crisis Intervention in the Yellow Pages) or call the Wyoming Coalition Against Domestic Violence and Sexual Assault at (800) 990-3877 or Wyoming Division of Victim’s Services at (888)996-8816 or the National Domestic Violence Hotline at (800) 799-SAFE (7233) or (512) 453-8117 (multi-lingual advocates are available); TTY: (800) 787-3224.*

**Read all the instructions before completing forms to ensure that you qualify to seek a sexual assault protection order in Wyoming. YOU DON’T NEED TO FILL OUT EVERY FORM. ONLY FILL OUT THE INFORMATION SHEET AND THE PETITION. Keep the other forms, as you may need them at a later date.**

**Definitions for Sexual Assault Order of Protection**  
**Wyo. Stat. § 7-3-506**

(i) "Court" means the Circuit Court \* \* \* in the County where an alleged victim of sexual assault resides or where the alleged perpetrator of the sexual assault is found;

(ii) "Order of Protection" means a court order granted for the protection of a victim of sexual assault;

(iii) "Sexual assault" means conduct as defined by W.S. § 6-2-302, 6-2-303, 6-2-314 through 6-2-318, which state:

**Sexual assault in the first degree:**<sup>i</sup> (a) Any actor who inflicts sexual intrusion on a victim commits a sexual assault in the first degree if: (i) The actor causes submission of the victim through the actual application, reasonably calculated to cause submission of the victim, of physical force or forcible confinement; (ii) The actor causes submission of the victim by threat of death, serious bodily injury, extreme physical pain or kidnapping to be inflicted on anyone and the victim reasonably believes that the actor has the present ability to execute these threats; (iii) The victim is physically helpless, and the actor knows or reasonably should know that the victim is physically helpless and that the victim has not consented; or (iv) The actor knows or reasonably should know that the victim through a mental illness, mental deficiency or developmental disability is incapable of appraising the nature of the victim's conduct; or an attempt or conspiracy to commit such act.

**Sexual assault in the second degree:**<sup>ii</sup> (a) Any actor who inflicts sexual intrusion on a victim commits sexual assault in the second degree if, under circumstances not constituting sexual assault in the first degree: (i) The actor causes submission of the victim by threatening to retaliate in the future against the victim or the victim's spouse, parents, brothers, sisters or children, and the victim reasonably believes the actor will execute this threat. "To retaliate" includes threats of kidnapping, death, serious bodily injury or extreme physical pain; (ii) The actor causes submission of the victim by any means that would prevent resistance by a victim of ordinary resolution; (iii) The actor administers, or knows that someone else administered to the victim, without the prior knowledge or consent of the victim, any substance which substantially impairs the victim's power to appraise or control his conduct; (iv) The actor knows or should reasonably know that the victim submits erroneously believing the actor to be the victim's spouse; (v) The actor is in a position of authority over the victim and uses this position of authority to cause the victim to submit; (vi) The actor is an employee, independent contractor or volunteer of a state, county, city or town, or privately operated adult or juvenile correctional system, including but not limited to jails, penal institutions, detention centers, juvenile residential or rehabilitative facilities, adult community correctional facilities or secure treatment facilities and the victim is known or should be known by the actor to be a resident of such facility or under supervision of the correctional system; or (viii) The actor inflicts sexual intrusion in treatment or examination of a victim for purposes or in a manner substantially inconsistent with reasonable medical practices. (b) A person is guilty of sexual assault in the second degree if

he subjects another person to sexual contact and causes serious bodily injury to the victim under any of the circumstances listed in W.S. 6-2-302(a)(i) through (iv) or paragraphs (a)(i) through (vii) of this section; or an attempt or conspiracy to commit such act.

**Sexual abuse of a minor in the first degree<sup>iii</sup>** a) An actor commits the crime of sexual abuse of a minor in the first degree if: (i) Being sixteen (16) years of age or older, the actor inflicts sexual intrusion on a victim who is less than thirteen (13) years of age; (ii) Being eighteen (18) years of age or older, the actor inflicts sexual intrusion on a victim who is less than eighteen (18) years of age, and the actor is the victim's legal guardian or an individual specified in W.S. 6-4-402; (iii) Being eighteen (18) years of age or older, the actor inflicts sexual intrusion on a victim who is less than sixteen (16) years of age and the actor occupies a position of authority in relation to the victim. (b) Except as provided in subsection (c) of this section, a person convicted under subsection (a) of this section is subject to imprisonment for not more than fifty (50) years, unless the person convicted qualifies under W.S. 6-2-306(e). (c) A person convicted under paragraph (a)(i) of this section, where the actor is at least twenty-one (21) years of age, is subject to imprisonment for not less than twenty-five (25) years nor more than fifty (50) years, unless the person convicted qualified under W.S. 6-2-306(e); or an attempt or conspiracy to commit such act.

**Sexual abuse of a minor in the second degree<sup>iv</sup>** (a) Except under circumstance constituting sexual abuse of a minor in the first degree as defined by W.S. 6-2-314, an actor commits the crime of sexual abuse of a minor in the second degree if: (i) Being seventeen (17) years of age or older, the actor inflicts sexual intrusion on a victim who is thirteen (13) through fifteen (15) years of age, and the victim is at least four (4) years younger than the actor; (ii) Being sixteen (16) years of age or older, the actor engages in sexual contact of a victim who is less than thirteen (13) years of age; (iii) Being eighteen (18) years of age or older, the actor engages in sexual contact with a victim who is less than eighteen (18) years of age and the actor is the victim's legal guardian or an individual specified in W.S. 6-4-402; or (iv) Being eighteen (18) years of age or older the actor engages in sexual contact with a victim who is less than sixteen (16) years of age and the actor occupies a position of authority in relation to the victim.

**Sexual abuse of a minor in the third degree:** Except under circumstance constituting sexual abuse of a minor in the first or second degree as defined by W.S. 6-2-314 and 6-2-315, an actor commits the crime of sexual abuse of a minor in the third degree if: (i) Being seventeen (17) years of age or older, the actor engages in sexual contact with a victim who is thirteen (13) through fifteen (15) years of age, and the victim is at least four (4) years younger than the actor; (ii) Being twenty (20) years of age or older, the actor engages in sexual intrusion with a victim who is either sixteen (16) or seventeen (17) years of age, and the victim is at least four (4) years younger than the actor, and the actor occupies a position of authority in relation to the victim; (iii) Being less than sixteen (16) years of age, the

actor inflicts sexual intrusion on a victim who is less than thirteen (13) years of age, and the victim is at least three (3) years younger than the actor; or (iv) Being seventeen (17) years of age or older, the actor knowingly takes immodest, immoral or indecent liberties with a victim who is less than seventeen (17) years of age and the victim is at least four (4) years younger than the actor;<sup>v</sup> or an attempt or conspiracy to commit such act.

**Sexual abuse of a minor in the fourth degree:** Except under circumstances constituting sexual abuse of a minor in the first, second, third degree as defined by W.S. 6-2-314 through 6-2-316, an actor commits the crime of sexual abuse of a minor in the fourth degree if: (i) Being less than sixteen (16) years of age, the actor engages in sexual contact with a victim who is less than thirteen (13) years of age, and the victim is at least three (3) years younger than the actor; or (ii) Being twenty (20) years of age or older, the actor engages in sexual contact with a victim who is either sixteen (16) or seventeen (17) years of age, and the victim is at least four (4) years younger than the actor, and the actor occupies a position of authority in relation to the victim;<sup>vi</sup> or an attempt or conspiracy to commit such act.

**Soliciting to engage in illicit sexual relations:** Defined as conduct, except under circumstances constituting sexual assault in the first, second or third degree as defined by W.S. 6-2-302 through 6-2-304, or sexual abuse of a minor in the first, second, third or fourth degree as defined by W.S. 6-2-314 through 6-2-317, by anyone who has reached the age of majority and who solicits, procures or knowingly encourages anyone less than the age of fourteen (14) years, or a person purported to be less than the age of fourteen (14) years, to engage in sexual intrusion as defined in W.S. 6-2-301;<sup>vii</sup> or an attempt or conspiracy to commit such act.

## **INSTRUCTIONS FOR COMPLETING THE PETITION FOR A SEXUAL ASSAULT ORDER OF PROTECTION**

Numbers to these instructions correspond to the same numbers on the Petition for Sexual Assault Protection Order. **READ THESE INSTRUCTIONS CAREFULLY.**

**YOU MUST BE AS THOROUGH, COMPLETE, AND DETAILED AS POSSIBLE. THE COURT MAY NOT GIVE YOU AN ORDER OF PROTECTION IF THERE IS NOT ENOUGH INFORMATION. YOU MUST APPEAR AT THE HEARING OR YOUR REQUEST FOR A SEXUAL ASSAULT PROTECTION ORDER MAY BE DENIED.**

### **Top of page for Petition for Sexual Assault Protection Order**

If you are filing this petition requesting the protection order, you are the ***Petitioner***.

**Respondent** is the person against whom an order is sought and the person alleged to be the perpetrator.

**Caption:** The caption is the top section of the petition stating the name of the Petitioner, Respondent, court and identifying the case number.

(a) Print or type in your name: FIRST, MIDDLE, LAST as Petitioner.

(b) Print or type in Respondent's (alleged perpetrator's) name: FIRST, MIDDLE, LAST.

**1-6.** Identify yourself and why you qualify for this petition.

**7.** Describe the Respondent's course of conduct that you believe constitutes sexual assault. Be detailed and as complete as possible.

**8-10.** Set forth the specific relief you desire from the Court including locations with addresses you wish to have the court order the Respondent to avoid and, if appropriate, on the lines indicated, set forth the names of others you wish to have included in the Order of Protection.

**11.** Respondent's Personal Information:

This section of the document is for the Court's information in order to identify the Respondent and to have the Respondent served with the petition by law enforcement officials.

Fill in the Respondent's information with name, address, employment and address of employment, together with other descriptive information requested.

**You must date, sign and verify the Petition before a notary public or clerk of court where the petition is to be filed.**

## **PROCEDURE FOR SEXUAL ASSAULT ORDER OF PROTECTION**

**1.** The petition is filed with the Court and if the Court finds there is a clear and present danger of continued sexual assault or other serious physical adverse consequences, an "Ex parte" Temporary Order of Protection will be issued and served on the Respondent. An ex parte order is an order that is entered after the court considers the Petitioner's information only. The Respondent will get notice of the allegations and will have an opportunity to be heard by the court at the hearing.

**2.** You should be prepared to present witnesses and other evidence to prove the

sexual assault allegations at the hearing whenever possible. If the Respondent does not receive notice of the hearing from the Sheriff at least twenty-four (24) hours before the hearing the hearing may be rescheduled to a later date. You may have to contact the clerk of the circuit court where you filed the petition to make sure that the Respondent received proper notice of the hearing. The Ex parte Temporary Order of Protection will include terms the Court deems necessary and sufficient to protect the Petitioner and other persons and will contain a date and time within seventy-two (72) hours, or as soon thereafter as the matter may be heard, for a hearing on the petition.

3. If the Court finds from the evidence at the hearing that sexual assault has occurred, an Order of Protection will be issued for up to six months, containing terms and conditions prohibiting further contact and/or sexual assault.

### **DURATION OF ORDERS**

If the judge gives you a Sexual Assault Protection Order, it will be in effect for up to six months and you may ask the court to extend the order upon a showing of good cause that a clear and present danger to the victim continues to exist, for additional periods of time not to exceed one year each. The Respondent may object to the extension and another hearing may be set. Judges may differ on what they consider "good cause." In the event you desire an extension of the Order of Protection, the request for extension must be filed prior to the expiration of the existing order and must contain information for the Court to consider in determining whether to extend the existing order. It is recommended that you not wait until the last minute to ask for an extension. You may want to contact an attorney for advice prior to filing for an extension.

### **EMERGENCY ASSISTANCE BY LAW ENFORCEMENT:**

A victim of sexual assault may request the assistance of law enforcement agencies which may take necessary steps to protect the victim including advisement of the remedies in Wyoming Statutes §7-3-506 through 7-3-511, advising the victim, when appropriate, of the procedure for initiating a sexual assault action or criminal proceedings and providing for or arranging for transportation of the victim to a medical facility or place of shelter.

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<sup>i</sup> Wyo. Stat. §6-2-302

<sup>ii</sup> Wyo. Stat. §6-2-303

<sup>iii</sup> Wyo. Stat. §6-2-314

<sup>iv</sup> Wyo. Stat. §6-2-315

<sup>v</sup> Wyo. Stat. §6-2-316

<sup>vi</sup> Wyo. Stat. §6-2-317

<sup>vii</sup> Wyo. Stat. §6-2-318